

DEPARTMENT OF THE ARMY  
Omaha District, Corps of Engineers  
106 South 15th Street  
Omaha, Nebraska 68102-1618

:NOTICE: Failure to acknowledge : Solicitation No. DACW45 02 B 0018  
:all amendments may cause rejec- :  
:tion of the bid. See FAR : Date of Issue: 15 May 2002  
:52.214-3 of Section 00100 : Date of Opening: 14 Jun 2002

Amendment No. 0001  
04 June 2002

SUBJECT: Amendment No. 0001 to Specifications and Drawings for Construction of  
Fish Hatchery Intake Structure and Pump House, Fort Peck, MT  
Solicitation No. DACW45 02 B 0018.

TO: Prospective Bidders and Others Concerned

1. The specifications and drawings for subject project are hereby modified as follows (revise all specification indices, attachment lists, and drawing indices accordingly).

a. Specifications. (Descriptive Changes.)

(1) CD Information Screen, disregard the bid opening date listed on the CD information screen that comes up when the CD is activated. The Bid Opening date is 14 June 2002, as stated on page 00010-1.

(2) Section 00100 Page 15, add the following new paragraph:

**"30. EXPEDITING CONTRACT AWARD AND NOTICE TO PROCEED.**

In order to expedite award of contract and issuance of NOTICE TO PROCEED, it is required that:

(1) subcontracting plan (on contracts exceeding \$1,000,000 for large business concerns only) be submitted within 24 hours after notification by the Government.

(2) pre-award information has been submitted as specified in paragraph: PRE-AWARD SURVEY INFORMATION and

(3) contract documents (including Performance and Payment Bonds) be executed and submitted within two (2) working days, in lieu of the 10 days specified in paragraph: PERFORMANCE AND PAYMENT BONDS, after successful bidder is notified of contract award."

(3) Section 00800 Page 6, paragraph 1.9, add the following to the paragraph:

"Commercial power for construction is not available at the Intake Structure and Pump House Site and will not be available until October 1, 2002. Government station power is available adjacent to the Pump House Site. Contractor has the option to use government station power for constructing

the facility until commercial power becomes available. Contractor shall coordinate installation and connection of the temporary power line with the Contracting Officer in the field. "

(4) Section 00800 Page 11, paragraph 1.23, subparagraph b, line 1, delete "\$200,000" and substitute "\$250,000".

(5) Section 11212 Page 5, paragraph 2.2, delete the 1<sup>st</sup> sentence reading "Pumps shall be capable of . . . indicated." And substitute "All pumps listed shall be capable of discharge quantities of water at maximum pump speeds not to exceed 1800 rpm and total pump head with the maximum efficiency indicated."

(6) Section 15200A Page 11, paragraph 1.8.1, delete "13110A CATHODIC PROTECTION SYSTEM (SACRIFICIAL ANODE)" and substitute "13112A CATHODIC PROTECTION SYSTEM (IMPRESSED CURRENT)".

(7) Section 15200A Page 12, paragraph 2.1.4, delete "13110A CATHODIC PROTECTION SYSTEM (SACRIFICIAL ANODE)" and substitute "13112A CATHODIC PROTECTION SYSTEM (IMPRESSED CURRENT)".

(8) Section 15200A Page 24, paragraph 3.5.1, delete "13110A CATHODIC PROTECTION SYSTEM (SACRIFICIAL ANODE)" and substitute "13112A CATHODIC PROTECTION SYSTEM (IMPRESSED CURRENT)".

(9) Section 15200A Page 15, delete paragraph 2.5, and substitute the following:

#### "2.5 RAW WATER INTAKE PIPING

CAPACITY: The screen assembly capacity shall be 12.5 cubic feet per second (cfs) at a maximum approach velocity of 0.4 feet per second, with the approach velocity measured three inches from the screen surface. The pressure drop through the clean screen surface shall not exceed 0.1 psi.

STRENGTH: The screen shall withstand a differential hydrostatic collapse pressure in excess of 10 psi. Maximum allowable design stress when determining strength shall be 25,000 psi. Strength calculations verifying compliance with these criteria shall be provided upon request.

CONSTRUCTION: The surface wire shall be profile or wedge wire. The surface wire, support rod, and stiffener structure shall be of all welded construction designed to provide the specified strength with minimal interference with the through-screen flow pattern. All structural butt welds shall be full penetration; structural fillet weld size shall be the thickness of the thinner component. An internal flow field modulator shall distribute flow evenly across the entire screen area.

SLOT: The screen slot size shall be 0.069 inches. The open area for this slot opening shall be 50 percent. Slot size shall be controlled and continuously monitored during manufacture. No slot opening in the assembly shall exceed the designed slot opening by more than 0.007 inches.

MATERIALS and FITTINGS: The screen assembly shall be manufactured of stainless steel throughout. The outlet flange shall match with the flange pattern equal to AWWA Class D. The raw water intake screen shall be manufactured by US Filter/Johnson Screens, or engineer approved equal.

The raw water intake screen element shall be provided with an air backwash connection to be used to remove solid particulates from the element. Connection and installation of the air piping shall be defined within the Contractor's installation workplan. "

b. Specifications (New and/or Revised and Reissued). Delete and substitute or add specification pages as noted below. The substituted pages are revised and reissued with this amendment.

Pages Deleted

Pages Substituted or Added

00010-1 & 2

00010-1 & 2

Attachments to SECTION 01355

404 Permit

Construction Dewatering General Discharge Permit

2. This amendment is a part of the bidding papers and its receipt shall be acknowledged on the Standard Form 1442. All other conditions and requirements of the specifications remain unchanged. If the bids have been mailed prior to receiving this amendment, you will notify the office where bids are opened, in the specified manner, immediately of its receipt and of any changes in your bid occasioned thereby.

a. Hand-Carried Bids shall be delivered to the U.S. Army Corps of Engineers, Omaha District, Contracting Division (Room 301), 106 South 15th Street, Omaha, Nebraska 68102-1618.

b. Mailed Bids shall be addressed as noted in Item 8 on Page 00010-1 of Standard Form 1442.

3. Bids will be received until 2:00 p.m., local time at place of bid opening, 14 Jun 2002.

Attachments:

Standard Form 1442 Pages 00010-1, 00010-2

Attachments to Spec Section 01355 listed in 1.b. above

U.S. Army Engineer District, Omaha  
Corps of Engineers  
106 South 15th Street  
Omaha, Nebraska 68102-1618

04 June 2002

MFS/4411

<b>SOLICITATION, OFFER, AND AWARD</b> (Construction, Alteration, or Repair)	1. SOLICITATION NO.	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
	DACW45-02-B-0018	<input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	15 May 2002	1 OF 2

IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.

4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.	6. PROJECT NO.
7. ISSUED BY	CODE	8. ADDRESS OFFER TO
U S ARMY ENGINEER DISTRICT, OMAHA 106 South 15th Street Omaha, Nebraska 68102-1618		U.S.ARMY CORPS OF ENGINEERS, OMAHA Attn: CONTRACTING DIVISION (CENWO-CT) 106 South 15th Street Omaha, Nebraska 68102-1618
9. FOR INFORMATION CALL:	A. NAME	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)
	See SECTION 00100, Para. 25	See SECTION 00100, Para. 25

#### SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

The Offeror hereby agrees to do all the work described in these documents entitled:

Fish Hatchery Intake Structure and Pump House, Fort Peck, MT

RETURN WITH BIDS: SECTION 00010 (SF1442), SECTION 00600 REPRESENTATIONS, CERTIFICATIONS & OTHER STATEMENTS OF BIDDERS, and all Bonding Requirements, See SECTION 00700 CONTRACT CLAUSES and SECTION 00100 for Performance and Payment Bonds.

Under the terms of this contract, the offeror agrees: (1) that upon written notification by the Government, within 24 hours, the offeror will provide their subcontracting plan (on contract exceeding \$1,000,000 for large business concerns only) and (2) that upon written notification of acceptance of this bid, mailed or otherwise furnished within 60 calendar days after the date of opening of bids, the offeror will provide within two (2) working days, in lieu of the 10 days specified in paragraph: PERFORMANCE AND PAYMENT BONDS, two sets of Performance and Payment bonds on Government standard forms with good and sufficient surety. Notice to Proceed will be issued as soon as practical thereafter.

11. The Contractor shall begin performance within 10 calendar days and complete it within 360 calendar days after receiving  
☐ award, ☒ notice to proceed. This performance period is ☒ mandatory, ☐ negotiable. (See \_\_\_\_\_.)

12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS?  
 (If "YES," indicate within how many calendar days after award in Item 12B.)

☒ YES ☐ NO

12B. CALENDAR DAYS

10

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and 0 copies to perform the work required are due at the place specified in Item 8 by 2:00 pm (hour) local time 14 Jun 2002 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee ☒ is, ☐ is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)  <div style="color: blue; margin-top: 20px;">DUNS Number:</div>				15. TELEPHONE NO. (Include area code)  16. REMITTANCE ADDRESS (Include only if different than Item 14)			
CODE		FACILITY CODE					
17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within <u>60</u> calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)							
<b>AMOUNTS</b>		<div style="margin-bottom: 5px;">Total Amount \$ _____</div> <div style="margin-bottom: 5px; text-align: center;">(In Figures)</div> <div style="display: flex; justify-content: space-between;"> <span>Contractor's Fax No. _____</span> <span>CAGE CODE _____</span> </div> <div>Contractor's E-Mail address _____</div>					
18. The offeror agrees to furnish any required performance and payment bonds.							
<b>19. ACKNOWLEDGMENT OF AMENDMENTS</b> (The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)							
AMENDMENT NO.							
DATE							
20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)				20B. SIGNATURE		20C. OFFER DATE	
<b>AWARD (To be completed by Government)</b>							
21. ITEMS ACCEPTED:							
22. AMOUNT				23. ACCOUNTING AND APPROPRIATION DATA			
24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)			ITEM  <div style="color: blue; font-size: 1.2em;">26</div>	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO  <div style="display: flex; justify-content: space-between;"> <span><input type="checkbox"/> 10 U.S.C. 2304(c) (     )</span> <span><input type="checkbox"/> 41 U.S.C. 253(c) (     )</span> </div>			
26. ADMINISTERED BY  <div style="color: blue;">             U.S. Army Engineer District, Omaha              106 South 15th Street              Omaha, Nebraska 68102-1618           </div>			27. PAYMENT WILL BE MADE BY  <div style="color: blue;">             USAED Omaha              c/o USACE Finance Center              5722 Integrity Drive              Millington, TN 38054-5005           </div>				
<b>CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE</b>							
<input type="checkbox"/> <b>28. NEGOTIATED AGREEMENT</b> (contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.				<input type="checkbox"/> <b>29. AWARD</b> (Contractor is not required to sign this document.) Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.			
30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)				31A. NAME OF CONTRACTING OFFICER (Type or print)			
30B. SIGNATURE		30C. DATE		31B. UNITED STATES OF AMERICA  BY		31C. AWARD DATE	

CENWO-OD-R-MT (1145b)

Sullivan/1375  
May 15, 2002

MEMORANDUM TO: CENWO-ED Ted Streckfuss

SUBJECT: Fish hatchery intake structures and outlet works (200290231)

1. I have reviewed your request dated April 18, 2002 for Department of the Army Authorization to install intake structures and outlet works for a fish hatchery project for the production of game, non-game, and endangered species of fish. The project site is located on the Missouri River below the Fort Peck Dam in the NE ¼ of Section 8, Township 26 North, Range 41 East, Valley County, Montana.
2. Based on the information provided, we have determined that the proposed work is authorized by Department of the Army Nationwide Permit 39, found in the January 15, 2002 Federal Register (Vol. 67, No. 10, Part II), Issuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this nationwide permit and lists the General Conditions which must be adhered to for this authorization to remain valid. Attached to the fact sheet are the Regional Conditions for the nationwide permit program in Montana, which may also apply to your proposed work.
3. Please note that deviations from the original plans and specification of your project could require additional authorization
4. This verification will be valid until May 15, 2004. In compliance with General Condition 14 of the fact sheet, the attached Compliance Certification form must be signed and returned to this office upon completion of the authorized work and any required mitigation.
5. Should you at any time become aware that either an endangered and/or threatened species or its critical habitat exists within the project area, you must immediately notify this office.
6. Wetland impacts associated with this project are isolated and are not jurisdictional under the Section 404 requirements; however, this project is subject to Executive Order 11990.
7. If you have any questions concerning this determination, please contact Vicki Sullivan of my staff at (406) 441-1375 and reference Corps File No. 2002-90-231.



Allan Steinle  
Montana Program Manager

Enclosure

CF: w/o enclosure  
CENWO-OD-LP (Snyder)  
Fred Offenkrantz, DEQ

## COMPLIANCE CERTIFICATION

Permit Number: 2002-90-231

Name of Permittee: U.S. Army Corps Engineers

County: Valley

Date of Issuance: May 15, 2002

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US Army Corps of Engineers  
Helena Regulatory Office  
10 West 15<sup>th</sup> Street, Suite 2200  
Helena, MT 59626-0014

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the conditions of this permit, you are subject to permit suspension, modification, or revocation.

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I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

**FACT SHEET  
NATIONWIDE PERMIT 39**

**RESIDENTIAL, COMMERCIAL, AND INSTITUTIONAL DEVELOPMENTS:** Discharges of dredged or fill material into non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters, for the construction or expansion of residential, commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development). The construction of new ski areas or oil and gas wells is not authorized by this NWP. Residential developments include multiple and single unit developments. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals and places of worship. The activities listed above are authorized, provided the activities meet all of the following criteria:

- a. The discharge does not cause the loss of greater than 1/2 acre of non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters;
- b. The discharge does not cause the loss of greater than 300 linear feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;
- c. The permittee must notify the District Engineer if any of the following criteria are met:
  - (1) The discharge causes the loss of greater than 1/10 acre of non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters; or
  - (2) The discharge causes the loss of any open waters, including perennial or intermittent streams, below the ordinary high water mark (see Note below); or
  - (3) The discharge causes the loss of greater than 300 linear feet of intermittent stream bed. In such case, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal, both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;
- d. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected special aquatic sites;
- e. The discharge is part of a single and complete project;
- f. The permittee must avoid and minimize discharges into waters of the United States at the project site to the maximum extent practicable. The notification, when required, must include a written statement explaining how avoidance and minimization of losses of waters of the United States were achieved on the project site. Compensatory mitigation will normally be required to offset the losses of waters of the United States. The notification must also include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the United States. If an applicant asserts that the adverse effects of the project are minimal without



mitigation, then the applicant may submit justification explaining why compensatory mitigation should not be required for the District Engineer's consideration;

g. When this NWP is used in conjunction with any other NWP, any combined total permanent loss of waters of the United States exceeding 1/10 acre requires that the permittee notify the District Engineer;

h. Any work authorized by this NWP must not cause more than minimal degradation of water quality or more than minimal changes to the flow characteristics of any stream;

i. For discharges causing the loss of 1/10 acre or less of waters of the United States, the permittee must submit a report, within 30 days of completion of the work, to the District Engineer that contains the following information: (1) The name, address, and telephone number of the permittee; (2) The location of the work; (3) A description of the work; (4) The type and acreage of the loss of waters of the United States (e.g., 1/12 acre of emergent wetlands); and (5) The type and acreage of any compensatory mitigation used to offset the loss of waters of the United States (e.g., 1/12 acre of emergent wetlands created on-site);

j. If there are any open waters or streams within the project area, the permittee will establish and maintain, to the maximum extent practicable, wetland or upland vegetated buffers next to those open waters or streams. Deed restrictions, conservation easements, protective covenants, or other means of land conservation and preservation are required to protect and maintain the vegetated buffers established on the project site; and

Only residential, commercial, and institutional activities with structures on the foundation(s) or building pad(s), as well as the attendant features, are authorized by this NWP. The compensatory mitigation proposal required in paragraph (f) of this NWP may be either conceptual or detailed. The wetland or upland vegetated buffer required in paragraph (j) of this NWP will be determined on a case-by-case basis by the District Engineer for addressing water quality concerns. The required wetland or upland vegetated buffer is part of the overall compensatory mitigation requirement for this NWP. If the project site was previously used for agricultural purposes and the farm owner/operator used NWP 40 to authorize activities in waters of the United States to increase production or construct farm buildings, NWP 39 cannot be used by the developer to authorize additional activities in waters of the U.S. on the project site in excess of the acreage limit for NWP 39 (i.e., the combined acreage loss authorized under NWPs 39 and 40 cannot exceed 1/2 acre).

**Subdivisions:** For residential subdivisions, the aggregate total loss of waters of the United States authorized by NWP 39 can not exceed 1/2 acre. This includes any loss of waters associated with development of individual subdivision lots. (Sections 10 and 404)

**Note:** Areas where wetland vegetation is not present should be determined by the presence or absence of an ordinary high water mark or bed and bank. Areas that are waters of the United States based on this criterion would require a preconstruction notification although water is infrequently present in the stream channel (except for ephemeral waters, which do not require a preconstruction notification under paragraph (c)(2) above; however, activities that result in the loss of greater than 1/10 acre of ephemeral waters would require preconstruction notifications under paragraph (c)(1) above).

**General Conditions:** The following general conditions must be followed in order for any authorization by a NWP to be valid:

1. **Navigation:** No activity may cause more than a minimal adverse effect on navigation.

**2. Proper Maintenance:** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

**3. Soil Erosion and Sediment Controls:** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

**4. Aquatic Life Movements:** No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

**5. Equipment:** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

**6. Regional and Case-By-Case Conditions:** The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the State or tribe in its Section 401 water quality certification.

**7. Wild and Scenic Rivers:** No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

**8. Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

**9. Water Quality:**

(a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)).

(b) For NWP 39, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

**10. Coast Zone Management:** *Not applicable.*

**11. Endangered Species:** (a) No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), the District Engineer may add species-specific regional endangered species conditions to the NWP.

(b) Authorization of any activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and [http://www.nmfs.noaa.gov/prot\\_res/overview/es.html](http://www.nmfs.noaa.gov/prot_res/overview/es.html) respectively.

**12. Historic Properties:** No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

**13. Notification:** *See attached sheets.*

**14. Compliance Certification:** Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter. The certification will be forwarded by the Corps with the authorization letter and will include: (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

**15. Use of Multiple Nationwide Permits:** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3 acre).

**16. Water Supply Intakes:** No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

**17. Shellfish Beds:** No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

**18. Suitable Material:** No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

**19. Mitigation:** The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

(a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring notification, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

(d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, 1/4-acre of wetlands cannot be created to change a 3/4-acre loss of wetlands to a 1/2-acre loss associated with NWP 39 verification. However, 1/2-acre of created wetlands can be used to reduce the impacts of a 1/2-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

(e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purpose. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineer may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

(g) Compensatory mitigation proposals submitted with the notification may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the United States.

(h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

**20. Spawning Areas:** Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

**21. Management of Water Flows:** To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelization will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect water flows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

**22. Adverse Effects From Impoundments:** If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restriction of its flow, shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the United States, or discharges of dredged or fill material.

**23. Waterfowl Breeding Areas:** Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

**24. Removal of Temporary Fills:** Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

**25. Designated Critical Resources Waters:** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, State natural heritage sites, and outstanding national resource waters or other waters officially designated by a State as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Except as noted below, discharges of dredged or fill material into waters of the United States are not authorized by NWP 39 for any activity within, or directly affecting, critical resource waters,

including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the United States may be authorized in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service has concurred in a determination of compliance with this condition.

**26. Fill Within 100-Year Floodplains:** For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

(a) Discharges in Floodplain; Below Headwaters: Discharges of dredged or fill material into waters of the United States within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWP 39.

(b) Discharges in Floodway; Above Headwaters: Discharges of dredged or fill material into waters of the United States within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWP 39.

(c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

**27. Construction Period:** For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12 months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date may be requested. This request must be submitted at least one month before the previously approved completion date.

#### **Further Information:**

1. District Engineers have authority to determine if any activity complies with the terms and conditions of a NWP.

2. NWPs do not obviate the need to obtain other Federal, State, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

### **General Condition 13. Notification:**

(a) Timing: Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

(1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

(2) If notified in writing by the District or Division Engineer that an individual permit is required; or

(3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information:

(1) Name, address, and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (sketches usually clarify the project and when provided result in a quicker decision);

(4) For NWP 39, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

(5) thru (11) **Not applicable to NWP 39.**

(12) For NWP 39, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization of losses of waters of the United States were achieved on the project site.

(13) For NWP 39, the PCN must include a compensatory mitigation proposal that offsets unavoidable losses of waters of the United States or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent streambed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed.

(14) thru (16) **Not applicable to NWP 39.**

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work.

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) Form of Notification: The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b)(1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

(d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal

individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the United States will occur until the District Engineer has approved a specific mitigation plan.

(e) Agency Coordination: The District Engineer will consider any comments from Federal and State agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2 acre of waters of the United States, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, State natural resource or water quality agency, EPA, and State Historic Preservation Officer (SHPO), and if appropriate, the NMFS). These agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) Wetlands Delineations: Wetlands delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.



**NATIONWIDE PERMITS  
REGIONAL CONDITIONS  
STATE OF MONTANA  
OMAHA DISTRICT – CORPS OF ENGINEERS  
Effective March 18, 2002**

**1. Fens**

All nationwide permits, with the exception of 3, 5, 20, and 32, are revoked for use in fens in Montana. For nationwide permits 3, 5, 20, and 32 permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any regulated activity impacting fens in Montana.

Wetlands commonly known as fens are defined as wetlands that are characterized by waterlogged spongy ground and contain (in all or in part) soils classified as histosols or mineral soils with a histic epipedon. To determine whether this provision applies, the entire wetland must be examined for the presence of histosols or histic epipedons.

**2. Springs**

For all nationwide permits, except NWP 40(a), permittees must notify the Corps in accordance with General Condition No. 13 (Notification) for regulated activities located within 100 feet of the water source in natural spring areas in Montana. For purposes of this condition, a spring source is defined as any location where there is artesian flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source.

**3. Pool and Riffle Complexes**

For all nationwide permits, except NWP 40(a), permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any regulated activity involving the discharge of dredge or fill material into pool and riffle complexes. The notification must contain identification of the location of pool and riffle complexes in the project area. Projects involving the discharge of dredged or fill material into a pool and riffle complex will not be authorized by a nationwide permit unless the permittee demonstrates that avoidance is impracticable. Compensatory mitigation for unavoidable adverse impacts may be required.

**4. Yellowstone River, Bitterroot River, and Missouri River**

In addition to those nationwide permit activities that require notification to the Corps, all activities proposed to be undertaken on the Yellowstone, Bitterroot and Missouri Rivers in accordance with NWPs 3, 12, 13, 14, 16, 18, 19, 39, 40(b), and 42 require prior notification to the Corps in accordance with General Condition No. 13 (Notification).

**5. Nationwide Permit 12 - Utility Line Activities**

Permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any utility line activity that involves the discharge of dredged or fill material into a flowing stream (including intermittent and ephemeral streams) in Montana.

Utility line projects through wetlands must be designed and constructed to prevent the trench and bedding material from acting as a subsurface drain. Cutoff collars will be installed if necessary to prevent wetland drainage.

**6. Nationwide Permit 13 - Bank Stabilization**

Bank stabilization structures that project into the stream, such as barbs or vanes, must meet the following criteria for consideration under this nationwide permit:

- The end of the structure at the bank will be no higher than the ordinary high water mark.
- The structure must angle upstream.
- The top of the structure must decrease in elevation from the bank to the end of the structure away from the bank.
- The structure must be keyed into the bed and the bank.

Structures that project from the bank that are perpendicular to the normal flow direction, or angle downstream, or extend above the ordinary high water mark, or are designed horizontally level, will not be considered under Nationwide Permit 13.

Projects that meet the bulleted criteria above may be reviewed under individual permit procedures if the Corps determines the project may have adverse impacts to adjacent properties, river functions, or essential habitat. Structures that occupy more than 10-25% of the bankfull channel width are more likely to be evaluated under individual permit procedures. Any permitted structure that fails must be repaired or all material removed from below ordinary high water.

The following applies to bank revetments (i.e., riprap, rootwads or any bioengineered revetment) and to bank stabilization structures that project into the stream, such as barbs or vanes. All bank stabilization structures must meet the following criteria for consideration under this nationwide permit:

- The top of the bank stabilization structure may not extend above the elevation of the existing top of the bank (i.e., no new levees).
- No bank stabilization structure can block or divert flows from entering a side channel or an overflow channel.

#### **7. Nationwide Permit 23 - Approved Categorical Exclusions**

Permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any activities involving the discharge of dredged or fill material into waters of the United States.

#### **8. Nationwide Permit 27 - Stream and Wetland Restoration Activities**

Permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any wetland or riparian restoration or creation activities that involve the discharge of dredged or fill material into waters of the United States.

#### **9. Nationwide Permit 39 - Residential, Commercial, and Institutional Developments**

Permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any work that involves the discharge of dredged or fill material into waters of the United States.

#### **10. Placement and Removal of Temporary Fills**

General Condition No. 24 is amended by adding the following: When temporary fills are placed in wetlands, a horizontal marker (e.g., fabric, certified weed-free straw, etc.) must be used to delineate the existing ground elevation of wetlands that will be temporarily filled during construction to facilitate removal to original grade and contour and to aid in restoration of impacted vegetation.

#### **11. Channel Straightening and Relocation Activities**

For all nationwide permits, except NWP 40(a), permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any activity that would result in straightening, relocating and/or shortening an existing perennial stream channel. For all such activities, the following conditions must be met:

- (1) The total channel length reduction is less than 100 feet; and
- (2) The project is necessary to prevent significant damage to private or public structures (roads, buildings, bridges, etc.); or
- (3) The project involves relocation of a previously straightened stream channel and net length is not reduced.

In addition to the above, the following conditions must be adhered to:

(a) Buffer strips will be set aside along the entire length of the new channel with a minimum width of 30 feet measured from the top of each side slope. The buffer strip shall be planted to appropriate permanent, perennial, native vegetation and will remain in this condition. Trees/shrubs removed by the construction will be replaced at a minimum ratio of 2 (replanted): 1 (removed). Higher ratios may be required in higher valued resource areas. The trees/shrubs will be replanted within the buffer strip, extending up and downstream of the project area, if necessary.

(b) The side slopes of the channel will be no steeper than three-foot horizontal to one-foot vertical [3(h): 1(v)]. If steeper slopes are proposed, a registered professional engineer must certify their stability. In no case will unarmored slopes steeper than 2(h): 1(v) be acceptable.

(c) Wetland losses greater than 0.1 acre will be mitigated. Replacement of riffle/pool complexes may be required if it is determined that their loss results in more than minimal impact.



Montana Department of  
**ENVIRONMENTAL QUALITY**

Judy Martz, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: [www.deq.state.mt.us](http://www.deq.state.mt.us)

Dear Potential Construction Dewatering Permit Applicant,

The Montana Department of Environmental Quality (DEQ) has established a "**Construction Dewatering General Discharge Permit**" through the public notice process under the authority of MCA 75-5-402 and ARM 17.30.901 et seq. Owners and operators of proposed dewatering activities must apply to DEQ in order to be covered under this Montana Pollution Discharge Elimination Permit (MPDES).

The "Construction Dewatering General Discharge Permit" covers discharges of water from cofferdams, trenches, excavation pits or other excavations associated with construction, where disturbed ground water or surface water inflow must be discharged to state surface waters. This permit also applies to produced water from well pump tests, well development, drill hole or pylon development, where pumped discharge water may contain visible suspended and bed load sediment which must be settled out before discharge is permissible.

This permit is only for produced water that contains sediment. Any other form of pollutant would require the applicant to apply for an individual discharge permit, which would require a public notice and pollutant specific treatment and monitoring.

Under most operational conditions, the permittee is required to construct some form of sediment settling/filtration system such as settling basins, low flow velocity settling methods, or filtration (silt fencing or straw bales) in order to meet the permitted instream water quality limits for turbidity.

If the produced water would not reach state waters, then a discharge permit is not required (e.g. percolate water into the ground or sprinkler irrigate). In no instance can this produced water return to state waters if a permit is to be avoided.

In Montana, State waters have been defined as being any waterbody that would normally appear on a USGS topographic map, including at a minimum; streams, creeks, rivers, lakes, ponds, sloughs, irrigation channels which return to state waters, plus intermittent and ephemeral drainages.

The instream limit for B-1 water (most of the mountainous western Montana) and C-1 streams, is an increase of <5 nephelometric turbidity units (NTU), and for most other streams in Montana (B-2, B-3 and C-2 & C-3) a 10 NTU increase above instream quality are the limits. The permit limits apply to natural instream quality, with comparative water quality samples being required for upstream and downstream sampling sites.

The permittee is required to collect samples of the discharge water at the point of discharge (e.g. pipe or pond outlet) and two instream points – one sample collected immediately above the discharge and a downstream sample collected at the end of the mixing zone (ARM 17.30.1808). The end of the mixing zone is defined as the distance 10 times the width of the receiving stream/river (e.g. for a stream 30' wide, the mixing zone is 300' downstream). Sampling is required within 30 minutes of initiating the discharge and then monthly thereafter.

The "Construction Dewatering General Discharge Permit" will expire June 30, 2002, however most permits are issued only for the maximum discharge time requested. A \$300 application fee and \$250 annual fee, for a total of \$550, payable to DEQ, is required at the time of application.

Should an applicant have questions about completing a permit application, they may call me at 444-0917.

Sincerely,

1

Todd A. Bennett  
Environmental Engineer Specialist  
Water Protection Bureau

**MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM  
APPLICATION TO DISCHARGE - SHORT FORM C**

FOR  
AGENCY  
USE

APPLICATION NUMBER									
DATE RECEIVED									

**Return to:** Water Protection Bureau  
Department of Environmental Quality  
PO Box 200901  
Helena, MT 59620-0901

Questions? Call (406) 444-3080

*Please print or type:*

1. Name, address, and telephone number of the individual or company which will have responsibility for the operation:

A. Name: \_\_\_\_\_

B. Mailing address:

(1) Street address: \_\_\_\_\_

(2) City: \_\_\_\_\_ (3) County: \_\_\_\_\_

(4) State: \_\_\_\_\_ (5) ZIP code: \_\_\_\_\_

(6) Telephone number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

C. The location of the discharging facility:

1. Attach a topographic map extending one mile beyond the property boundaries of the discharge source. Indicate on the map the point of discharge, and drinking water wells listed in public records or otherwise known to the applicant.

a. Section \_\_\_\_\_ b. Township \_\_\_\_\_ c. Range \_\_\_\_\_

2. City: \_\_\_\_\_ 3. County: \_\_\_\_\_

4. State: \_\_\_\_\_ 5. Phone Number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

2. A brief description of the nature of the business: \_\_\_\_\_

\_\_\_\_\_

3. A narrative description of the activities which require a discharge of wastewater:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Over, please)

SUPPLEMENTAL INFORMATION REQUESTED

SHORT FORM C

(FOR DISCHARGES FROM CONSTRUCTION ACTIVITIES)

1. Detailed description of the overall and specific construction activities from which any discharge(s) from a point source may occur.
2. Location of the specific construction activities from which any discharge(s) from a point source may occur (locate by township, range, section and  $\frac{1}{4}$  section).
3. Name of receiving watercourse.
4.
  - a) Date that the contracts will be signed for the construction activities from which any discharge(s) may occur.
  - b) Anticipated date of initiation of construction activities from which any discharge(s) may occur.
  - c) Anticipated duration of construction activities from which any discharge(s) may occur.
5. Discuss in detail any actions (including wastewater control facilities) that are proposed to be taken to minimize the amount of pollutants in the discharge(s) and/or for amount of the discharge.

6. Is a discharge to the receiving watercourse necessary with this project?

a) Is it possible to irrigate the wastewater in the area and thereby eliminate any discharge to state waters?

b) Is it possible to construct a settling pond in such a manner as to eliminate any discharge of wastewater to state waters?

7. Will the discharge(s) contain pollutants other than total suspended solids and turbidity? Explain:

8. Discuss all construction activities that may result in non-point sources of stream sedimentation (e.g. instream work with heavy equipment, dredging, channeling and excavations).

9. Describe the alternatives available for minimizing or eliminating each sediment source mentioned in item No. 8. Also, indicate the method(s) to be used to control sediment sources on this project.

SUPPLEMENTAL INFORMATION REQUESTED

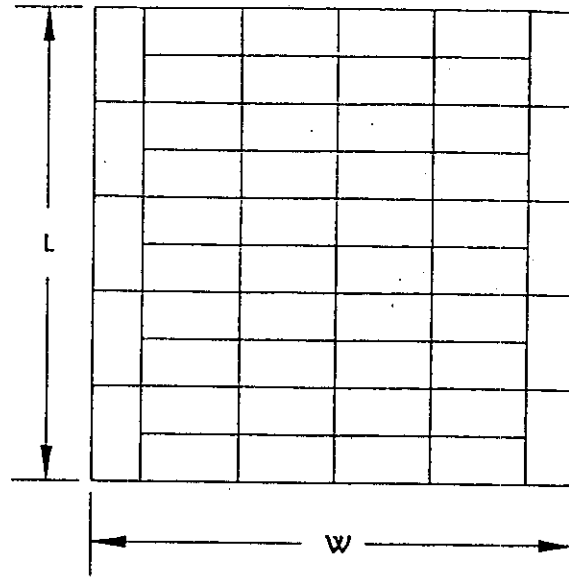
SHORT FORM C

1. Location of all discharge points (locate each discharge point below by township, range, section, and 1/4 section). Attach topographic map if available.
2. Indicate the concentrations of the following substances in your wastewater and in the receiving water. Analyze only those checked.

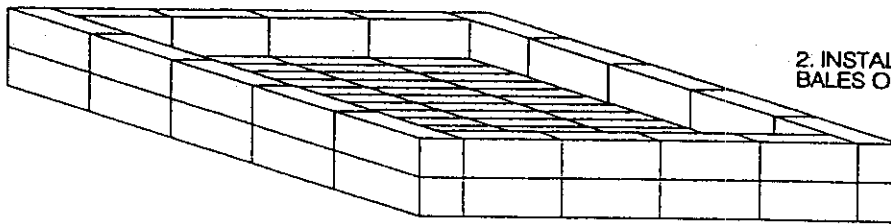
SUBSTANCE	Wastewater	CONCENTRATION	Receiving Water
Ammonia (as N), mg/l			
Total Kjeldahl Nitrogen, mg/l			
Nitrate-Nitrite (as N), mg/l			
Total Phosphorous (as P), mg/l			
Orthophosphate (as P), mg/l			
Biochemical Oxygen Demand (5-day BOD), mg/l			
Chemical Oxygen Demand, mg/l			
Total Suspended Solids, mg/l			
Total Dissolved Solids, mg/l			
Specific Conductance, umhos/cm at 25°C			
pH, Units			
Temperature, °F			
Aluminum, mg/l			
Arsenic, mg/l			
Beryllium, mg/l			
Boron, mg/l			



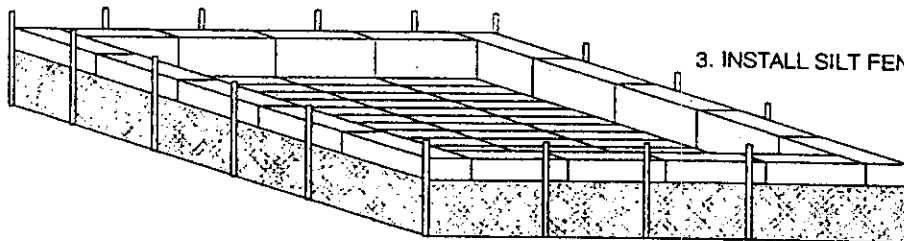




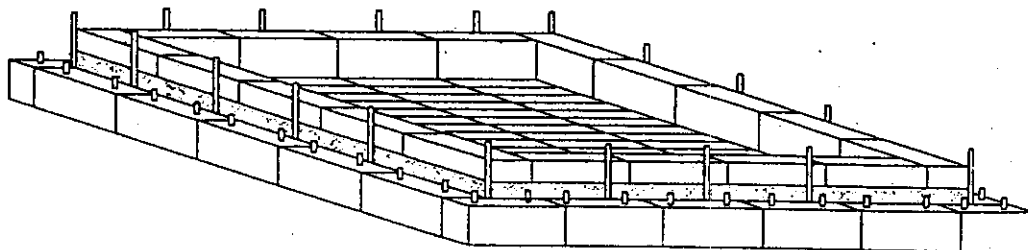
1. ARRANGE STRAW BALES ON LEVEL GROUND TIGHTLY PACKED AS SHOWN.



2. INSTALL A SECOND LAYER OF STRAW BALES ON THE OUTER EDGE.



3. INSTALL SILT FENCE AROUND STRUCTURE.



4. INSTALL A NEW LAYER OF STRAW BALES ON THE OUTSIDE OF THE SILT FENCE AND SECURE WITH TWO STAKES THROUGH EACH OUTER BALE.